

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. With the exception of the Indiana lot, the article was alleged to be misbranded because of false and misleading statements in its labeling regarding its efficacy in the prevention of disease.

On July 31, 1944, W. H. Reed and Co., Atlanta, Ga., claimant, having admitted the allegations of the libel against the Georgia lot, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the product be tested and that the unfit portion be destroyed under the supervision of the Food and Drug Administration. Between September 11 and December 29, 1944, no claimant having appeared for the other lots, judgments of condemnation were entered and the product was ordered destroyed.

1436. Adulteration and misbranding of prophylactics. U. S. v. 46½ Gross of Prophylactics. Default decree of destruction. (F. D. C. No. 13182. Sample No. 87509-F.)

On August 8, 1944, the United States attorney for the District of Minnesota filed a libel against 46½ gross of prophylactics at Minneapolis, Minn., alleging that the article had been shipped on or about July 20, 1944, by the Standard Drug Co., from Chicago, Ill. The article was labeled in part: "Silver-Tex Prophylactics."

Examination of samples disclosed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. It was alleged to be misbranded in that the label statement, "Prophylactics," was false and misleading as applied to an article that contained holes.

On October 2, 1944, no claimant having appeared, judgment was entered ordering that the product be destroyed.

1437. Adulteration and misbranding of prophylactics. U. S. v. 49½ Gross, 161½ Gross, and 92½ Gross of Prophylactics. Default decrees of destruction. (F. D. C. Nos. 12686, 12760, 13055. Sample Nos. 40152-F, 40436-F, 40507-F, 87401-F.)

Between June 14 and July 25, 1944, the United States attorney for the District of Minnesota filed libels against 303½ gross of prophylactics at Minneapolis, Minn., alleging that the article had been shipped between the approximate dates of February 14 and April 26, 1944, by the Dean Rubber Manufacturing Co., from North Kansas City, Mo., and Kansas City, Mo. The article was labeled in part: "Peacocks," or "Ultrex Platinum."

Examination of samples showed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. It was alleged to be misbranded in that the labeling statements, (49½-gross lot) "Air-Tested Each and Every Peacock Device is 'Scientifically Tested' by Special Process * * * an aid in preventing venereal disease Guaranteed Two Years Against Deterioration," (161½-gross lot) "Scientifically Tested * * * For Your Protection * * * Guaranteed Against Deterioration for Two Years," and (92½-gross lot) "Scientifically Tested by Special Process. * * * An Aid in Preventing Venereal Disease," were false and misleading as applied to an article containing holes.

Between July 26 and September 11, 1944, no claimant having appeared, judgments were entered ordering that the product be destroyed.

DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

DRUGS FOR HUMAN USE

1438. Misbranding of Ceregen. U. S. v. 19 Dozen Packages of Ceregen. Default decree of condemnation and destruction. (F. D. C. No. 12710. Sample Nos. 35256-F to 35259-F, incl.)

On or about June 22, 1944, the United States attorney for the Southern District of Florida filed a libel against 19 dozen packages of Ceregen at Tampa, Fla., alleging that the article had been shipped by the Ulrici Medicine Co., Inc., from New York, N. Y., between the approximate dates of December 24, 1943, and February 23, 1944.

* See also Nos. 1401-1404, 1407-1409, 1412-1414, 1419, 1427, 1430-1437.

Examination of a sample showed that the article consisted of approximately 10 percent alcohol, 5 percent nonvolatile matter, and 85 percent water. The nonvolatile matter included phosphates and glycerophosphates of sodium, potassium, and iron; material derived from *nux vomica*, including strychnine, caffeine, sugar, glycerin, and caramel. Each 100 milliliters of the article contained approximately 3 milligrams of iron, 60 milligrams of caffeine, and 2 milligrams of strychnine.

The article was alleged to be misbranded in that certain statements on its label and in an accompanying circular entitled "Ceregen" were false and misleading since they represented and suggested that the article would be efficacious in toning the system, supplying deficiencies of iron, phosphorus, and other salts, and in treating physical exhaustion and nervous hyposthenia; and that all ingredients of the article were of the standard of purity and strength established by the United States Pharmacopoeia. The article was not effective to fulfill the promises of benefit stated and implied, and some of the ingredients, including the glycerophosphates of sodium, potassium, and iron, are not recognized by the United States Pharmacopoeia.

The article was alleged to be misbranded further (1) in that the statement on its labels, "A preparation containing phosphates and glycerophosphates of sodium, potassium and iron in a balanced proportion," was misleading since the phosphates and glycerophosphates of sodium, potassium, and iron in the preparation were of no therapeutic significance; (2) in that its container was so made, formed, and filled as to be misleading, since the carton was materially taller than was necessary for the size of the bottle contained therein; and (3) in that the common or usual name of each active ingredient, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since fluidextract of *nux vomica*, the only therapeutically significant active ingredient contained in the article, was not named upon the bottle label, and upon the carton it was mentioned in a long list of other nonactive ingredients so as not to inform the purchaser that it was the sole therapeutically important active ingredient of the preparation.

On July 17, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1439. Misbranding of Lock's 9.12 Formula. U. S. v. 168 Packages of Lock's 9.12 Formula. Default decree of condemnation. Product ordered delivered to the National Zoological Park, for use as animal feed. (F. D. C. No. 13361. Sample No. 79299-F.)

On August 17, 1944, the United States attorney for the District of Columbia filed a libel against 168 packages of Lock's 9.12 Formula at Washington, D. C., alleging that the article had been shipped on or about August 2, 1944, by Lock's Laboratories, New York, N. Y.

Examination of a sample showed that the article consisted of approximately 63 percent of wheat germ with smaller proportions of other ingredients, including seaweed, gum karaya, and yeast.

The article was alleged to be misbranded in that certain statements in an accompanying leaflet entitled "Eat For Health" were false and misleading since they represented and suggested that use of the article would assure health to the user; that the article would supply 9 vitamins and 12 minerals for which the need in human nutrition has been demonstrated and which are not supplied, to the extent that they are needed, in the ordinary diet; that the vitamins A, B, C, D, E, G (or B₂), B₆, niacin, and calcium pantothenate would promote appetite and growth, digestion and assimilation of food, normal nerve health, and normal adrenal function, and would help to protect the eyes, ears, nose, and throat against infection, protect the body from nerve diseases and against infections of the respiratory tract, stimulate metabolic processes, and insure healthy blood vessels, gums, teeth, and skin; that those vitamins would prevent low resistance of the mucous membranes to cold infection, lowered resistance to skin infections, stones in kidneys and bladder, poor vision, tear duct infections, corneal ulcers, rough, dry skin, nervousness, irritability, dyspepsia, retarded growth, brain disturbance, heart disturbance, dry, scaly skin, lack of muscular tone, weakness, loss of weight and vigor, weakened blood capillaries, general tendency to bleeding, decreased red blood cells, tender joints (pain and swelling), cataracts, sallow, pale complexion, anemia, spongy, swollen gums, tooth decay and defective teeth, low blood pressure, loss of appetite,